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SPECIFIC GROUPS AND INDIVIDUALS: MASS EXODUSES AND DISPLACED PERSONS

Report of the Representative of the Secretary-General, Mr. Francis Deng, submitted pursuant to Commission on Human Rights resolution 200/53

Addendum

The Representative of the Secretary-General on internally displaced persons, in conformity with Commission resolution 2000/53 encouraging the dissemination and application of the Guiding Principles on Internal Displacement at regional and other seminars on displacement and encouraging the Representative to continue to initiate or support such seminars in consultation with regional organizations, intergovernmental and non-governmental organizations and other relevant institutions, has the honour to transmit to the Commission the summary report of the Regional Workshop on Internal Displacement in the South Caucasus, organized by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe, the Brookings Institution Project on Internal Displacement and the Norwegian Refugee Council and held in Tbilisi from 10 to 12 May 2000.

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ANNEX

Summary report of the Regional Workshop on Internal Displacement in the South Caucasus

(Tbilisi, 10-12 May 2000)

CONTENTS

		Paragraphs
I.	Summary report	1 - 20

Appendices*

I. Statement of NGO partners

II. Agenda

III. List of participants

IV. Background paper

* Available upon request from the files of the secretariat.

1. Almost 1 million persons have been forcibly displaced within the countries of the South Caucasus, primarily by armed conflict and ethnic strife but also by natural disaster. Unlike refugees who have an established system of international protection and assistance upon which to rely, the internally displaced often find themselves with no predictable institutions to turn to, although they are in equally desperate straits.

2. To promote more effective solutions to the plight of internally displaced persons in the South Caucasus, a high-level gathering was convened on 10-12 May 2000 in Tbilisi, Georgia, at the invitation of the Representative of the Secretary-General on internally displaced persons, Dr. Francis M. Deng. Participants included officials of the Governments of Armenia, Azerbaijan and Georgia responsible for displaced populations, NGOs, academic institutions and displaced communities from the three countries, representatives of regional organizations, international organizations, and international NGOs, and international experts.

3. The workshop was sponsored by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE), the Brookings Institution Project on Internal Displacement, and the Norwegian Refugee Council.

4. Participants at the workshop reviewed internal displacement in Armenia, Azerbaijan and Georgia, in particular the number of those internally displaced, the composition of the displaced populations, their conditions and special needs, and the role that Governments, regional organizations, local non-governmental and international organizations can play in addressing these concerns.

5. Participants emphasized the vulnerability and range of hardships that internally displaced persons endure. Along with emotional trauma, displacement often results in separation from family members, loss of economic opportunities, disruption of education and schooling and the severance of cultural and social ties. In the case of the South Caucasus, participants underscored the highly negative consequences that protracted internal displacement has had on the region and called upon the Governments concerned to reflect seriously on these consequences. For example, a number of speakers pointed out that internally displaced persons have become marginalized within their societies, which impedes their ability to contribute to the communities in which they now live in a constructive and productive manner. High levels of poverty and unemployment in the region further affect the internally displaced disproportionately. Concerns were also expressed about the growing number of internally displaced children who have had to resort to begging or even criminality. Several speakers pointed out that certain areas have experienced substantial depopulation combined with the growing trend towards "ethnic homogeneity". In addition, the continued absence of sustainable political solutions to the conflicts impedes possibilities for safe and durable return and perpetuates the state of uprootedness. Such conditions also undermine the claims States may have to future participation in European political institutions such as the Council of Europe and the European Union. Furthermore, these "frozen conflicts" and the difficulties of economic transition have resulted in a continuing "brain drain" or departure of the most economically active part of society and have undermined the region's attractiveness to international investment and the opportunities that this

would create. After many years of providing humanitarian relief, without an end in sight to the fundamental problems causing the displacement, international organizations and NGOs are now reconsidering their humanitarian relief efforts, from which an unhealthy dependency has developed. Some no longer feel they can provide effective assistance, feel deadlocked by the frozen political situation and have begun to question their presence in the region.

6. In addition, there is a lack of clarity about the difference between refugees and internally displaced persons. Unlike internally displaced persons, refugees have left their country of origin. Because they are abroad, they can benefit from an established international legal and institutional framework applicable to them. As such, they have a distinct legal identity which enables them to receive the protection of the State of which they are *not* a citizen. By contrast, the internally displaced remain within the borders of their own countries, which means that primary responsibility for meeting their protection and assistance needs rests with their home Governments. As citizens of their countries, they are entitled to the full protection provided by international human rights law and international humanitarian law as well as domestic law. Indeed, they have the same rights as all *other* citizens in their country which means that under no circumstances should they be discriminated against on account of their displacement. Internally displaced persons, however, do have special needs arising from their displacement. Responding to these needs sometimes requires that special measures be taken to ensure realization of their rights. The Guiding Principles on Internal Displacement serve as a guide to the Governments and other relevant actors in the region on how to make these rights operational during all phases of displacement.

7. Workshop participants welcomed the Guiding Principles as a useful restatement of hard international law as well as an instrument providing clear guidance in cases where existing international law contains grey areas. There is a growing worldwide acceptance of the Guiding Principles and recognition of the fact that they have gained international standing and authority. Hope was expressed at the meeting that the Principles would mature in time into customary international law.

8. From among the Principles, those relating to non-discrimination and equality, freedom of movement and choice of residence, political participation, return, resettlement and reintegration as well as the special needs of women and children were discussed in some detail. Particular emphasis was given to the right to political participation. Several participants pointed out that in Georgia, while the internally displaced are able to vote in presidential elections and for nationwide parliamentary lists, they are not able to vote for their local parliamentary and municipal representatives - that is for those who could most directly help improve their current conditions. The Government's position, it was noted, reflects the apparent concern, also expressed by some internally displaced persons, that by voting at the local level internally displaced persons will relinquish their right to return to areas from which they came. It was emphasized, however, that the two are not mutually exclusive and that the rights of the internally displaced should not be restricted on account of their displacement. A number of persons at the workshop expressed the view that the law should be amended and brought into line with international standards. Problems of political participation of the internally displaced were also noted in Azerbaijan and Armenia stemming from the remnants of the propiska system.

9. In general, the legacy of legislation and practices from the Soviet period, such as the propiska, has acted as impediments to the full exercise of property rights, freedom of movement and choice of residence, and hampered the ability of the internally displaced to partake easily of micro-credit projects. Since the Governments in the region were in a process of transition from one type of economic and political system to another, laws relating to citizenship, property, political participation and freedom of movement and choice of residence were also in a state of transition, creating additional problems for the internally displaced. Ultimately, the right of internally displaced persons to return to their home areas should not impede their access to more permanent housing, their right to vote for local representatives, and the possibility of finding employment in their current area of residence.

10. Attention also focused on the issue of property restitution in view of growing recognition that this is a crucial aspect of the peace-building process. A number of participants described different means by which property issues could be resolved. Certain precedents were cited from the context of Bosnia and Herzegovina and other Balkan countries that could prove instructive in the South Caucasus region. It was noted that States have an obligation to amend their legislation in such a way as to facilitate property restitution. The Government of Georgia informed the workshop of a new draft law on property restitution which would facilitate the return of persons displaced due to the Georgian-South Ossetian conflict. Several participants noted the importance of land allocation as a means of solving property problems.

11. In the three countries, women and children, the majority of the displaced, carry a disproportionate share of the burden resulting from displacement. For example, unemployment levels are higher among women. Children's education is interrupted. These socio-economic problems are reflected in family life. Participants pointed out that women surveyed by NGOs expressed their priorities to be: employment opportunities; the ability to utilize their skills; permanent and sanitary housing conditions; and above all, more normal lives for their children. Despite a strong sentiment in favour of return, women wanted the opportunity to live productive lives in their current places of residence, revealing once more that the right to return and the exercise of other basic rights need not be mutually exclusive. Several participants expressed the view that development programmes should be accompanied by psycho-social assistance for both women and children. This was considered to be as relevant now as it was immediately after hostilities since many children who previously did not receive such assistance were now beginning to show signs of traumatization. Indeed, it should be a fundamental component of efforts to rebuild conflict-affected nations. Reference was made to innovative NGO efforts, such as "peace camps", that were bringing together internally displaced and other war-affected children from different ethnic groups in order to promote inter-cultural dialogue and raise public consciousness to the importance of reconciliation and peace-building.

12. The subject of return occupied many participants. The Guiding Principles emphasize the importance of being able to choose between voluntary return and resettlement or integration in another part of the country. In the South Caucasus, however, participants noted that most internally displaced persons have a very strong desire to return to their places of origin, in part not to reward perceived past injustices. But unfortunately, as also pointed out, all attempts to solve the root causes of the various conflicts were frozen, making large-scale and durable returns in the near future unlikely.

13. Several participants noted the importance of developing a mechanism for reviewing the extent to which conditions for internally displaced persons in specific States accord with the standards contained in the Guiding Principles. A number of participants referred to the need for national legal and policy frameworks for responding to the needs of the internally displaced. In this regard, reference was made to the role that the Guiding Principles could play as a guide in the development of such frameworks. Mention was also made of the utility of incorporating the Principles into national legislation and ensuring their application at the local and district levels. In this context, the discussion revealed substantial differences in how the different countries of the region approach internal displacement as well as in the actual situations themselves, including their causes and consequences. At the same time, there were some strong similarities.

14. Some participants suggested that a regional approach to monitoring the Principles might be appropriate. For example, a regional council of experts might be established to monitor the Guiding Principles. Others suggested that the regional effort also include government representatives, in particular local government representatives. Still others felt that all forced migration should be covered and that internal displacement should be included as one component within a broader regional framework dealing with conflict resolution, regional stability, economic progress and the development of civil society. It was in particular suggested that support be given to the continuation beyond 2000 of the CIS Conference process so as to continue to reinforce the development of local capacities and strengthen networking among non-governmental organizations.

15. Another dominant theme at the workshop was how the international community could better address the needs of the internally displaced in the region. Given the protracted nature of displacement, international organizations had already begun to reduce their levels of humanitarian assistance to the countries concerned. Some participants expressed the view that relief assistance unaccompanied by development assistance had not served the region well. Development projects should have been introduced at an earlier stage to build self-reliance and fill the gap between relief and development. It was also pointed out that new emergencies in the world were detracting from the high levels of humanitarian assistance to the South Caucasus and that the unresolved conflicts in the region were eroding interest in funding development projects of the sort required. The OSCE Meeting on Migration and Internal Displacement scheduled for 25 September 2000 should be useful in focusing the international community's attention on the plight of the internally displaced in the South Caucasus.

16. Of particular relevance to the region was the "New Approach to IDP Assistance in Georgia", described by international organizations at the workshop. Building upon a similar initiative launched in Azerbaijan, the "New Approach" is an innovative partnership among the United Nations Development Programme (UNDP), Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), the World Bank and the Government of Georgia. It recognizes the right of internally displaced persons to return to their homes in safety and dignity. But absent these conditions, it recognizes the right of the internally displaced to be treated in the same manner as all citizens. Therefore, it aims at giving the internally displaced an opportunity to build skills and a level of self-reliance that they can take home - capacities available from development-oriented assistance rather than from traditional humanitarian aid. To this end, a fund is being set up which

will be used for micro-credit and other rehabilitation projects, and it will also be designed to take into account gender needs. The "New Approach" is intended to help bridge the gap between humanitarian relief and development assistance and serve as a model for how the international community can best address the needs of the internally displaced in a frozen conflict setting. Such an approach usefully could be applied comprehensively in all countries in the region.

17. Another significant means identified for addressing displacement, promoting solutions and encouraging transitions and change in society was the strengthening of civil society. Local NGOs have become active throughout the South Caucasus in working with displaced populations but they need increased training, funds and also stronger partnerships with their respective Governments. In particular, legislation is needed to encourage and facilitate their work and eliminate restrictions on their activities. Further, full partnerships are needed by local NGOs with international NGOs, international organizations and the private sector. Indeed, the view was expressed that national NGOs should play the lead role in their societies with internally displaced populations. To this end, a group of NGOs at the workshop made a series of proposals (see appendix I). These include the intention to develop a common framework for disseminating and promoting the Guiding Principles in the South Caucasus; the translation of the Guiding Principles into local languages (they are already available in Azerbaijani and Georgian) and in a format best suited to target groups; the initiation of regional consultations on issues relating to the internally displaced; the creation of country-specific monitoring mechanisms based on the Guiding Principles to assess the region's displacement situations; and the opening of a dialogue among Governments, NGOs and international organizations about the issues raised and their potential policy implications.

18. Workshop participants were informed about the Norwegian Refugee Council's Global IDP Database, created in support of the mandate of the Representative of the Secretary-General on internally displaced persons and to assist in monitoring the application of the Guiding Principles. Participants were encouraged to share information and to establish networks to ensure that available resources are utilized effectively. They were also invited to share information with the Database to help promote international awareness of the situation in the South Caucasus. The availability of up-to-date information on internal displacement in the region is essential to local, regional and international advocacy efforts

19. The workshop was further informed of government efforts with regard to the internally displaced in their respective countries. A number of government initiatives were considered promising, especially the stated willingness to revise current policies and legislation relating to the internally displaced and the intention to establish better cooperative frameworks with non-governmental organizations. However, it was noted that limited resources constrain governmental efforts and make cooperation with the international community essential. In particular, the role of international and regional organizations was found by participants to remain critical in several key areas:

- Advocacy to promote the rights of internally displaced persons;

- Advice to Governments on best practices;

- Resource mobilization through the donor community to complement national efforts;

- Reinforcement of coordination by Governments in their support of internally displaced persons; and

- Promotion of political solutions to the region's frozen conflicts.

20. As concerns political solutions, participants emphasized that the provision of humanitarian assistance and development aid could never replace the need for the resolution of conflicts that engender displacement. Indeed, in the absence of political will to resolve these conflicts, the present difficult situation will continue despite other efforts.